IN THE HIGH COURT OF BOMBAY AT GOA
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WRIT PETITION NO. 421 OF 2002

1. Shri Kust Upaso Gad,
(expired) by his legal
heirs:

a) Smt. Parvati Kust Gad,
widow of late plaintiff
no.1 (already on record as
plaintiff no.2),

b) Smt. Susan Dinesh Prabhu
Dessai (widow), major
in age, daughter,

c) Shri Samir Dinesh Prabhu
Desai, aged 12 years,
grandson,
all r/o H.No.272, Tudol,
Gaondongrim, Canacona,Goa,

d) Mrs. Dulu Daji Dessai,
(daughter),

e) Shri Daji Manikroo Dessai,
son-in-law,
both are married, major
in age, r/o Suri,
Sacorda, Sanguem, Goa,

f) Shri Umakant Kust Gad,
son (expired) represented
by respondent no.10,

g) Shri Anand Vithoba Desai,
son-in-law,

h) Mrs. Sangita Anand Dessai,
daughter,
both at Sr.No.(h) & (i)
are major in age,
married, r/o Bandamol,
Fatorpa, Goa,

i) Mrs. Urmila Sanjay Naik,
daughter,

j) Shri Sanjay Naik,
son-in-law,
both are married, major
in age, r/o Ankola, Karwar,

k) Shri Ulhas Kust Gad,
son, major in age,

unmarried,

l) Kum. Amita Kust Gad,
unmarried,

m) Shri Sanjay Kust Gad,
son. unmarried,

n) Shri Sandesh Kust Gad,
son, unmarried,

all r/o Tudol, H.No.272,
Gaondongrim, Canacona, Goa. ... Petitioners.

Versus

1. Shri Vidhyadhar Raghu Gad,
s/o late Raghu Gad,
aged about 55 yrs.
agriculturist, married
and his wife,

2. Smt. Tara Vidhayadhar Gad,
married, major in age,
housewife,

3. Shri Kushali Raghu Gad,
s/o late Raghu Gad,
aged 60 years,
agriculturist,
married and his wife,

4. Smt. Kushawati Kushali Gad,
married, major in age,
housewife,
all r/o Tudol, Gaondongrim,
Canacona, Goa,

5. Shri Dattaram Raghu Gad,
s/o late Raghu Gad,
(expired), represented
by his legal heirs:

a) Smt. Geeta D. Gad,
widow,

b) Kum. Roopa D.Gad,
daughter,

c) Kum. Deepa D. Gad,
daughter,

d) Kum. Shilpa D.Gad,
daughter,
all r/o Mastimol,
Canacona, Goa,

6. Smt. Geeta Dattaram Gad, major in age, r/o near Police Station, Canacona, Goa,

7. Smt. Aprup Raghoba Dessai, widow of Raghoba Dessai, major in age, housewife, r/o Kindlem, Canacona, Goa (since deceased through his L.Rs.:-

(a) Shri Subash Raghoba Dessai, age 45, married (son);

(b) Smt. Shubangui Subash Dessai, age 40, wife of (a);

Both residents of House No. 1086, Kindlem, Canacona, Goa.

(c) Shri Yeshwant Raghoba Dessai age 62 (son),

(d) Smt. Lila Yeshwant Dessai, age 55, wife of (c);

Both residents of House No. 1086-I, Kindlem, Canacona, Goa,

(e) Shri Kanta Raghoba Dessai, age 54 (son);

(f) Smt. Jayshree Kanta Dessai, age 49, wife of (e);

Both r/o House No.1088, Kindlem, Canacona, Goa,

(g) Smt. Surang Nilu Phaldessai (daughter), age 67, wife of

(h) Shri Nilu Pandu Phaldessai, age 67

Both r/o House No.1088, Kindlem, Canacona, Goa,

8. Smt. Sumati Govind Raut Dessai, widow of Govind Raut Dessai, major in age, housewife, r/o H.No. 123, Assolda, Chandor, Goa,

9. Shri Jobu Shet,
married, major in age,
agriculturist, r/o
H. No.1475, Delem,
Canacona, Goa and

10. Smt. Shali Umakant Gad,
widow of petitioner
no.1, major in age,
r/o Tudol,
Gaondongrim, Canacona,
Goa.
All the above addresses
of the parties are the
registered addresses ... Respondents.

Shri Sudesh Usgaokar, advocate for the petitioners.

Shri P. A. Kamat, advocate for respondent nos. 1 and 2.

CORAM : F. I. REBELLO, J.

DATE : 12th June, 2003

ORAL JUDGMENT

Rule. Respondents waive service. Heard forthwith.

2. The petitioners on an earlier occasion had moved an application for production of documents under Order 13 Rule 2 C.P.C. That application came to be rejected by the Order of 30th July, 2002, on the ground that subsequent to the amendment of the C.P.C. such an application would not be maintainable.

3. The petitioners herein thereafter applied, by a fresh application under Order 7 Rule 14 (3) C.P.C. The learned Judge dismissed the said application. Hence the present Writ Petition. The rejection firstly is on the ground that the document, an earlier land revenue receipt dated 31st August, 1994, had already been produced and that

the petitioners were now seeking to produce the receipt for the year 2001-2001 and that could not be done as in the list of documents which was filed on 31st August, 1994, the receipt was not annexed. The learned Judge thereafter considered the document namely the site plan and went on to hold that it was not produced alongwith the plaint and, therefore, the genuineness of the site plan is doubtful and no explanation has come as to why it was not produced alongwith the suit.

4. Considering Order 7 Rule 14 (3) C.P.C., it is clear that if the party does not produce documents at the time of filing of the suit or refer to them in the list; Such party is still entitled to do so at the hearing of the suit, but with the leave of the Court. The petitioners had so applied and it was for the Court to consider the same. When the Court considers an application for production of such document, the evidentiary value of the documents need not be gone into. Suffice it to say that the petitioners must be able to show some relevancy of the documents to what is in issue in the suit. While exercising its discretion no doubt this Court must hear the other side.

A site plan is required for the purpose of identifying the property. That would be a private document to be proved by the party producing such document. Insofar as the land revenue receipt is concerned, for the subsequent

years, the evidentiary value of the same could be considered at the stage of appreciation of evidence. The application was therefore maintainable. The petitioners were able to show some relevance of the documents. In these circumstances, the order of the learned Judge clearly discloses an error apparent on the face of the record.

5. In the light of that interference is called for. Considering the above, Rule made absolute in terms of prayer clauses (a) and (b). It is made clear that pursuant to these documents, if the respondents herein apply for producing any additional documents, the learned Judge shall consider the same and dispose off the same according to law.

F. I. REBELLO, J.

mc.